

**AUGUST 14, 2006
FOR IMMEDIATE RELEASE**

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IN THE SUPREME COURT OF THE STATE OF IDAHO

Docket No. 31308

IN THE MATTER OF INITIATIVE)	
PETITION FOR A TEN)	
COMMANDMENTS DISPLAY.)	
-----)	
CITY OF BOISE CITY, a municipal)	
corporation,)	Boise, December 2005 Term
)	
Plaintiff-Respondent,)	2006 Opinion No. 84
)	
v.)	Filed: August 14, 2006
)	
KEEP THE COMMANDMENTS)	Stephen W. Kenyon, Clerk
COALITION, an unincorporated)	
association, BRYAN J. FISCHER, an)	
individual, and MELISSA B. SWINDELL, an)	
individual,)	
)	
Defendants-Appellants.)	

Appeal from the District Court of the Fourth Judicial of the State of Idaho,
Ada County. Honorable Ronald J. Wilper, District Judge.

The decision of the district court is reversed.

Troupis Law Office, Meridian, for Appellants. Christ T. Troupis argued.

Cary B. Colaianni, Boise City Attorney, Boise, for Respondent. Valencia
J. Bilyeu argued.

In an opinion released today by the Idaho Supreme Court, the Court found that the Initiative Petition for a Ten Commandments Display (Petition) filed by the Keep the Commandments Coalition (the Coalition) qualifies for the ballot for consideration by the voters. The Court held the Petition for Declaratory Judgment filed by the City of Boise City (the City) should have been denied.

The Fraternal Order of Eagles donated a Ten Commandments monument to the City in 1965 and it was placed in Julia Davis Park. The Mayor and City council removed the Ten Commandments display from the park and moved it to St. Michael's Cathedral in March 2004. The Coalition filed the Petition with the Boise City Clerk, respectfully demanding that the City enact a proposed ordinance for placement of a Ten Commandments display in Julia Davis Park. The Clerk verified the signatures on the petitions and concluded that there were 10,721 signatures of qualified electors, a sufficient number to place the Petition on the ballot.

The Petition was presented to the City council, which refused to place it on the ballot. In a letter dated June 22, 2004, the City informed the Coalition that the matter was not a proper subject for the initiative process since the Petition improperly sought to implement an administrative act, rather than a legislative act, through an initiative election. The City directed the Boise City Attorney to file an action concerning this matter, and on August 27, 2004, the City filed a Petition for Declaratory Judgment. The City asked the district court to declare that the City is not authorized or required to hold an initiative election in this case.

The district court granted the declaratory judgment, ruling that the City is not authorized to hold an initiative election upon the Petition, reasoning that the City had a process for the placing of monuments in city parks at the time of the proposed initiative. The Coalition appealed.

The Idaho Supreme Court held that the Petition is not ripe for review. The Court noted that it is debatable whether the Petition in this case is legislative in nature, dealing with a proper subject for initiative, or administrative, dealing with a management issue beyond the scope of the initiative process. In the past when a proposed initiative would clearly be beyond the scope of a proper initiative, the Court has refused to require the matter to be placed on the ballot. However, in this case the Court has ruled that a qualifying initiative should be placed on the ballot. There is no present need for adjudication. If the initiative does not pass, there will be no need for an adjudication as to its validity. The City council can override the initiative if it passes. The subject is not ripe for resolution in this proceeding and may never become ripe.

The Court concluded that the City's request for declaratory judgment should have been denied, and the Petition should be submitted to the voters.